



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
HISTORICAL PRESERVATION & HERITAGE COMMISSION

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EASEMENT GUIDELINES

The Rhode Island Historical Preservation & Heritage Commission has the statutory authority under Chapter 39 of Title 34 of the General Laws of Rhode Island to accept contributions of partial interest in real property for conservation purposes in perpetuity. The Historical Preservation Easements Program has been established to preserve and protect historic and cultural resources in the State including buildings, archaeological sites, and land areas. This document outlines the policies and procedures of the Historic Preservation Easements Program that have been adopted by the Commission.

Grantors planning to donate an easement as a charitable contribution for federal income tax purposes, must ensure that their deduction meets minimum federal requirements as stated in proposed regulations published May 23, 1983 (26 CFR Parts 1, 20, and 25) as authorized by Section 6 of the Tax Treatment Extension Act of 1980 (P.L. 96-547).

ACCEPTANCE CRITERIA

1. In general, the Commission considers easement donations for buildings listed or eligible for listing in the National Register of Historic Places. In historic districts, properties should contribute to the significance of the district.

The Commission will consider easement donations on historically important land areas and archaeological sites when the property is listed or eligible for listing in the National Register.

2. The Commission will consider easement donations on qualifying buildings I the following physical conditions:
  - A. Fully restored/rehabilitated
  - B. Unrestored, but intact
  - C. Appropriate rehabilitation work in progress
  - D. Altered but still retains very significant historical features

When evaluating buildings, the Commission will refer to the Secretary of the Interior's Standard's for Rehabilitation and National Register Evaluation Criteria. The Commission will consider each easement donation offer on its won merits irrespective of any other approvals or certifications which the property may have received. It is likely that the

Commission will accept easements for buildings in categories A, B, and C. However, in the case of altered properties (category D), the Commission may decide to decline the easement donation or may require that some restoration work be performed as a condition of accepting an easement. Examples of inappropriate alterations would include work where there has been irreversible damage, such as sandblasting, or building treatments what are unsympathetic or incompatible with the historic and architectural character of a structure.

#### FEE STRUCTURE

1. An endowment will be required as a condition of accepting the easement. The endowment will be equal to five percent of the appraised value of the easement. In certain circumstances, 50% of the fee may be paid initially and the remainder paid over a term of one to five years.
2. The Commission requires grantors to submit documentation to verify the appraised value of the easement. Grantors seeking a federal tax deduction will be required to submit copies of pertinent information filed with the Internal Revenue Service including the appraiser's report.
3. In special circumstances, such as easement donations by non-profit organizations, the endowment fee may be waived in whole or part.

#### EASEMENT APPRAISAL

The Grantor is solely responsible for arranging for a qualified appraiser to determine the value of the easement. The Commission is not involved in the valuation process. By accepting an easement (and receiving the endowment) the Commission does not certify or approve the accuracy of the appraisal.

#### ADMINISTRATIVE PROCEDURES

1. Applications for easement donations are reviewed by Commission staff for technical adequacy and completeness. The Commission staff will make a preliminary and non-binding judgment whether a potential easement property meets the acceptance criteria, including the property's significance, current condition, pending construction plans, and any other factors deemed pertinent.
2. A complete and adequately documented application for easement donation, including the Deed of Easement, will be reviewed by the Commission, and a vote to accept the easement will be taken.
3. The Grantor is responsible for completing the standard Commission Deed of Easement (except for Exhibit B) and having his or her attorney review its contents. The Deed includes the legal property description (Exhibit A), a description of the restricted portions of the building and the graphic material appended to the Deed (Exhibit B), and a description of proposed restoration or rehabilitation work, if any, plus any related architectural plans and elevations (Exhibit C). The grantor and the Commission staff should review the Deed in draft.

4. The Grantor must submit adequate documentation of the easement value (generally a copy of the IRS form which verifies the appraised value of the easement claimed for tax purposes and the appraiser's final report). In addition, the grantor must adequately insure the property against fire and other casualty loss to meet his or her obligations under the terms of the Deed of Easement. The grantor must submit an insurance certificate that verifies this coverage.
5. The grantor must submit graphic documentation which records the condition of a building and/or site and its significant features. The pictorial documentation requirements may vary in cases where an interior easement is being donated or if a building's significance is gained, in part, by its detail/ornamentation. Grantors must sign and date all graphic material.

In general, a minimum of eight 8" x 10" black and white glossy photographs (and negatives) of the exterior will be required. Beginning with the front façade, the eight photographs should be taken in a clockwise direction around the property. This way a building is documented in its entirety.

- A general site plan is required.
  - Architectural plans and elevations will be required if rehabilitation work is planned or already underway. These will be referenced in Exhibit C of the Deed.
6. The grantor must detail all proposed plans for rehabilitation work in an Exhibit C to be part of the Deed of Easement. The commission will be responsible for completing Exhibit B.
  7. The grantor is responsible for recording the Deed of Easement and submitting a recorded copy to the Commission as soon as it is available.

#### TIME SCHEDULE

In general, the entire easement donation process will take several months. The staff needs a minimum of 14 days to review an application request before making a preliminary response to the applicant. Documentation material for Commission approval must be submitted to the Commission 14 days prior to the Commission meeting.

#### MONITORING AND ENFORCEMENT OF THE EASEMENT

1. The Commission will maintain files on all properties for which it holds an easement. Each property will be inspected at least once annually. Any significant change in the condition of the property will be brought to the grantor's attention and will be reported to the Commission.
2. Under the terms of the easement, prior to undertaking repairs, alterations, demolition, restoration, painting, or any other type of construction or modification to the property, the grantor must receive the Commission's written approval of the proposed work. It is grantor's responsibility to inform the Commission about any planned work subject to review.

## AUTHORIZED REPRESENTATIVES OF THE COMMISSION

1. The Chairman and the Executive Director are authorized to sign legal documents on behalf of the Commission following the Commission's vote to accept an easement. In addition, the chairman and the Executive Director will take actions which they deem appropriate to monitor and enforce the terms of the easement and to manage the easements program without requiring specific authorization by the Commission. Changes in the terms of an easement or release of an easement may only be approved by a vote of the Commission.